

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2017

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.359 of 2017

and Crl.M.P.No.238 of 2017

Sivaraman ... Petitioner

Vs

The State, rep by
The Inspector of Police,
Mahalingapuram Police Station,
Coimbatore District. ... Respondent

Criminal Original Petition filed under Section 482
Cr.P.C. to set aside the order passed by the learned Judicial
Magistrate No.2, Pollachi, made in C.M.P.No.6834 of 2016 in
C.C.No.201 of 2014 dated 18.11.2016.

For Petitioner : Mr.M.N.Balakrishnan
For respondent : Mr.C.Emalias,
Addl. Public Prosecutor

ORDER

The present criminal original petition has been filed
to set aside the order dated 18.11.2016 passed by the learned
Judicial Magistrate No.II, Pollachi, made in C.M.P.No.6834 of
2016 in C.C.No.201 of 2014.

2. It is the case of the petitioner that he is facing
trial before the learned Judicial Magistrate No.II, Pollachi, in
C.C.No.201 of 2014 for the alleged offence punishable under
Sections 279 and 304-A I.P.C. During the course of trial, he
filed a petition in C.M.P.No.6834 of 2016 under Section 311
Cr.P.C. seeking to cross examine P.W.1 and the same was
dismissed by the learned Judicial Magistrate No.II, Pollachi.
Challenging the said order of dismissal, the petitioner has come
up with the present petition.

3. Learned counsel appearing for the petitioner submitted that due to non-availability of some important documents, the petitioner was not able to cross examine P.W.1. However, without considering the same, the learned Magistrate dismissed the said petition.

4. Learned Additional Public Prosecutor has no serious objection to allow this petition.

5. Considering the facts and circumstances of the case, this Court is of the view that the petition could be allowed by imposing costs.

6. Accordingly, the order of the learned Judicial Magistrate No.II, Pollachi, made in C.M.P.No.6834 of 2016 in C.C.No.201 of 2014 dated 18.11.2016 is set aside and the petitioner is permitted to cross examine P.W.1, subject to payment of a sum of Rs.1,000/- (Rupees one thousand only) to the Tamil Nadu Legal Aid Services Authority, within a period of two weeks from the date of receipt of a copy of this order, failing which, the order gets vacated automatically. On such payment within the stipulated period, the petitioner is permitted to cross examine P.W.1. The cross examination of P.W.1 shall be completed within a period of two weeks from the date of payment of the said amount. The criminal original petition is ordered accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

sbi

To

1.The Judicial Magistrate No.II,
Pollachi

2.The Inspector of Police,
Mahalingapuram Police Station,
Coimbatore District.

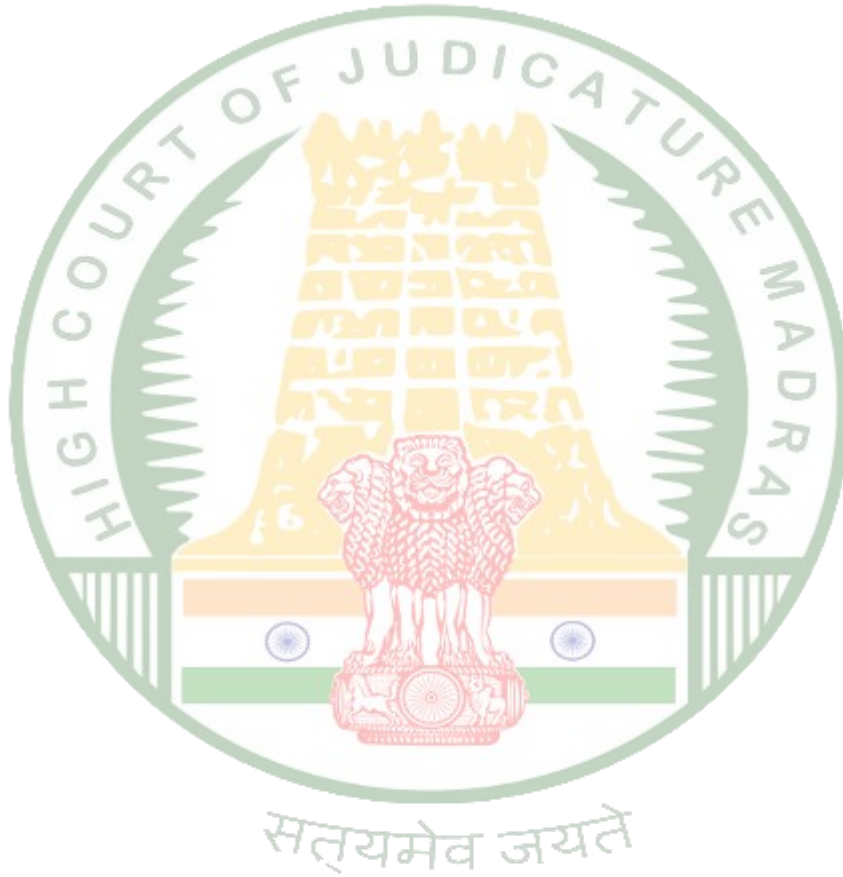
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3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M. Balakrishnan, Advocate, S.R.No.2013

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